

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 863 - SB 1378

March 16, 2015

SUMMARY OF BILL: Creates the “Collateral Recovery Act” for the purpose of regulating repossession agencies and repossession agents. Establishes license and registration requirements for agencies and agents. Requires the Tennessee Department of Commerce and Insurance (TDCI) to administer this regulatory program. Authorizes the Commissioner of TDCI to establish fees for initial and renewal registration, initial and renewal licensure and other fees to offset the cost of administering the program. Registration is required of all repossession agencies and agents. TDCI is authorized to levy a fee against registrants found in violation of this Act. Licenses are required by any agency or agent which operates within a county having a population of 200,000 or more; however, the appropriate legislative body of a county, having a population of less than 200,000, may adopt a resolution stating that the county seeks this licensure requirement be placed on repossession agencies and agents operating within its jurisdiction. Upon passage of the resolution, a county must notify TDCI of such resolution. TDCI will then notify all registered agencies and agents operating in the applicable county, informing them of the passage of the resolution. Authorizes TDCI to levy a fine against licensed agencies or agents found in violation of this Act, not to exceed \$1,000 per violation. Establishes insurance filing requirements for repossession agencies. Requires TDCI to maintain a searchable registry of all registrants and licensees on the Department’s website. Establishes a list of persons and entities exempt from these requirements.

Creates the Collective Recovery Administrative Fund (CRA). This fund will be located in the State Treasury. All fee revenue collected from registration, licensure and civil penalties will be deposited into this fund to offset the cost of administrating this newly-created regulatory program. Any excess revenue over program expenditures will not revert to the general fund. Prohibits the expending of general fund dollars to administer this program. This Act will take effect on July 1, 2015.

ESTIMATED FISCAL IMPACT:

Increase State Revenue – \$139,700/Recurring/CRA Fund

Increase State Expenditures - \$135,200/FY15-16/CRA Fund

\$122,600/FY15-16 and Subsequent Years/CRA Fund

Assumptions:

Registration

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- Repossession agencies work with lenders to recover collateral subject to an obligation, pledge, mortgage, chattel mortgage, lease agreement, rental agreement, deposit, or lien, which is given by a debtor as security for payment or performance of the debtor's debt by furnishing the creditor with a recourse to be used in case of failure in the principal obligation.
- All repossession agencies will be required to obtain registration with TDCI.
- The number of repossession agencies that will need to be registered within Tennessee is unknown. TDCI assumes that the total number of repossession agencies in the state is similar to the number of licensed wrecker services statewide. Data provided to TDCI from the Department of Safety places the total number of wrecker services statewide at 369.
- It is estimated that, on average, there will be two repossession agents per agency or 738 total agents (369 x 2).
- TDCI will charge \$10 for an initial and renewal two-year registration for agencies and agents.
- The recurring increase in state revenue for FY15-16 and biennially thereafter is \$11,070 [$\$10 \times (369 + 738)$].

Licensure

- Licenses will be required of agencies and agents operating in counties having a population of 200,000 or more and any county in which the governing legislative body adopts a resolution, which would effectively require the repossession agencies and agents working within its jurisdiction to seek licensure with TDCI.
- There are five counties with populations of 200,000 or more: Davidson, Hamilton, Knox, Rutherford, and Shelby.
- There are approximately 210 wrecker services operating in these 5 counties, and an estimated 420 agents. These agencies and agents will seek licensure from the department.
- The number of county legislative bodies that adopt such resolutions is unknown; however, it is estimated that there will be approximately 30 additional agencies and 60 additional agents licensed from the remaining 90 counties.
- There will be approximately 240 agencies (210 + 30) and 480 agents (420 + 60) licensed in this state.
- TDCI will charge \$669 and \$112 for an initial and renewal two-year agency and agent license, respectively.
- The recurring increase in state revenue for FY15-16 and biennially thereafter is \$214,320 [(240 agencies x \$669) + (480 agents x \$112)].
- TDCI will charge \$450 for an initial and renewal two-year branch or remote storage license.
- TDCI assumes that approximately 25 percent of licensed agencies will have branches and an additional 25 percent will have remote storage locations.
- The recurring increase in state revenue for FY15-16 and biennially thereafter is \$54,000 [(240 x 0.25 = 60 branches) + (240 x 0.25 = 60 storage locations) x \$450].
- Total Revenue in FY15-16 and biennially thereafter of \$279,390 (\$11,070 + \$214,320 + \$54,000).

- Annualized, this will result in a recurring increase in state revenue in FY15-16 and subsequent years of \$139,695 (\$279,390 / 2 years).

Civil Penalties - Court Cases - Insurance

- The number of civil penalties to be assessed is unknown. It is estimated that any civil penalties assessed will be minimal and will not result in a significant increase in revenue.
- A small increase in cases in the court system, which will result in additional state and local government expenditures for processing the cases and additional state and local government revenue from fees, taxes and costs collected. These expenditures and revenue are estimated to be not significant.
- This legislation requires repossession agencies to hold liability insurance coverage for itself and its employed agents. It is assumed that these businesses currently hold insurance policies covering the wide-range of liabilities faced in the repossession industry. Any increase to agencies' current insurance policies is assumed to be not significant.

Expenditures

- TDCI will create two positions - one regulatory board manager and one administrative assistant to support this new program.
- The recurring increase in state expenditures is \$122,573 (\$85,932 salary + \$25,567 benefits + FICA \$6,574 + office lease \$3,900 + supplies \$600).
- TDCI will incur additional one-time expenditures to support these positions.
- The increase in one-time expenditures for the positions is \$7,600 (computers \$3,600 + telephone \$2,000 + office furniture \$2,000).
- TDCI estimates one-time rulemaking costs of \$5,000 based on costs incurred by programs and boards of similar size.
- Increase in state expenditures in FY15-16 of \$135,173 (\$122,573 + \$7,600 + \$5,000).
- Increase in state expenditures in FY16-17 and subsequent years of \$122,573.

IMPACT TO COMMERCE:

Increase Business Expenditures - \$139,795/Recurring

Assumptions:

- Increase in tax-deductible business expenses of \$139,695 in FY15-16 and subsequent years for repossession agencies and agents in Tennessee.
- There is estimated to be no significant impact to jobs within this state as a result of this bill.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in dark ink, reading "Jeffrey L. Spalding". The signature is fluid and cursive, with the first name "Jeffrey" and last name "Spalding" clearly legible.

Jeffrey L. Spalding, Executive Director

/jdb